

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CAROLINA CASUALTY
INSURANCE COMPANY

Plaintiff,

vs.

DE CASTRO, WEST,
CHODOROW, MENDLER &
GLICKFELD, INC.;
CONTINENTAL CASUALTY
COMPANY; FIRST SPECIALTY
INSURANCE COMPANY;
INTERSTATE FIRE AND
CASUALTY INSURANCE
COMPANY

Defendants.

Case No. 2:23-cv-02674-MEMF(ASx)

PROTECTIVE ORDER

Judge: Hon. Maame Ewusi-Mensah

Frimpong

Magistrate Judge: Hon. Alka Sagar

Complaint Filed: April 10, 2023

1. PURPOSE

A. PURPOSES AND LIMITATIONS

Disclosure and discovery in this action may involve production of confidential, proprietary, or private information, including, but not limited to information, communications, and documents that are attorney work product or subject to attorney-client privilege, for which protection from public disclosure and from use

1 for any purpose other than pursuing this litigation may be warranted. Accordingly,
2 the parties hereby stipulate to and petition the Court to enter the following Stipulated
3 Protective Order. The parties acknowledge that this Order does not confer blanket
4 protection on all disclosures or discovery and that the protection it affords extends
5 only to the information or items that are entitled to be treated as confidential under
6 the applicable legal principles.

7 **B. GOOD CAUSE STATEMENT**

8 This action is likely to involve commercial, financial, technical and/or proprietary
9 information and may involve privileged and/or work product protected information
10 for which special protection from public disclosure and from use for any purpose other
11 than prosecution of this action is warranted. Such confidential, proprietary, privilege
12 and/or protected materials and information consist of, among other things,
13 confidential business or financial information, information regarding confidential
14 business practices, or other confidential research, development, or commercial
15 information (including information implicating privacy rights of third parties),
16 information otherwise generally unavailable to the public, or which may be privileged
17 or otherwise protected from disclosure under state or federal statutes, court rules,
18 case decisions, or common law. Accordingly, to expedite the flow of information, to
19 facilitate the prompt resolution of disputes over confidentiality of discovery
20 materials, to adequately protect information the parties are entitled to keep
21 confidential, to ensure that the parties are permitted reasonable necessary uses of
22 such material in preparation for and in the conduct of trial, to address their handling
23 at the end of the litigation, and serve the ends of justice, a protective order for such
24 information is justified in this matter. It is the intent of the parties that information
25 will not be designated as confidential for tactical reasons and that nothing be so
26 designated without a good faith belief that it has been maintained in a confidential,
27 non-public manner, and there is good cause why it should not be part of the public
28 record of this case.

1 **2. DEFINITIONS**

2 2.1 Action: this pending federal lawsuit.

3 2.2 Challenging Party: a Party or Non-Party that challenges the designation
4 of information or items under this Order.

5 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
6 how it is generated, stored or maintained) or tangible things that qualify
7 for protection under Federal Rule of Civil Procedure 26(c), and as
8 specified above in the Good Cause Statement.

9 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
10 their support staff).

11 2.5 Designating Party: a Party or Non-Party that designates information
12 or items that it produces in disclosures or in responses to discovery as
13 “CONFIDENTIAL.”

14 2.6 Disclosure or Discovery Material: all items or information, regardless
15 of the medium or manner in which it is generated, stored, or maintained
16 (including, among other things, testimony, transcripts, and tangible
17 things), that are produced or generated in disclosures or responses to
18 discovery in this matter.

19 2.7 Expert: a person with specialized knowledge or experience in a matter
20 pertinent to the litigation who has been retained by a Party or its counsel to
21 serve as an expert witness or as a consultant in this Action.

22 2.8 House Counsel: attorneys who are employees of a party to this Action.
23 House Counsel does not include Outside Counsel of Record or any other
24 outside counsel.

25 2.9 Non-Party: any natural person, partnership, corporation, association,
26 or other legal entity not named as a Party to this action.

27 2.10 Outside Counsel of Record: attorneys who are not employees of a party
28 to this Action but are retained to represent or advise a party to this Action and

1 have appeared in this Action on behalf of that party or are affiliated with a
 2 law firm which has appeared on behalf of that party, and includes support
 3 staff.

4 2.11 Party: any party to this Action, including all of its officers, directors,
 5 employees, consultants, retained experts, and Outside Counsel of Record (and
 6 their support staffs).

7 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
 8 Discovery Material in this Action.

9 2.13 Professional Vendors: persons or entities that provide litigation support
 10 services (e.g., photocopying, videotaping, translating, preparing exhibits or
 11 demonstrations, and organizing, storing, or retrieving data in any form or
 12 medium) and their employees and subcontractors.

13 2.14 Protected Material: any Disclosure or Discovery Material that is
 14 designated as “CONFIDENTIAL.”

15 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
 16 from a Producing Party.

17 **3. SCOPE**

18 The protections conferred by this Stipulation and Order cover not only
 19 Protected Material (as defined above), but also (1) any information copied or
 20 extracted from Protected Material; (2) all copies, excerpts, summaries, or
 21 compilations of Protected Material; and (3) any testimony, conversations
 22 presentations by Parties or their Counsel that might reveal Protected Material.

23 Any use of Protected Material at trial shall be governed by the orders of the
 24 trial judge. This Order does not govern the use of Protected Material at trial.

25 **4. DURATION**

26 After final disposition of this litigation, the confidentiality obligations imposed
 27 by this Order shall remain in effect until a Designating Party agrees otherwise in
 28 writing or a court order otherwise directs. Final disposition shall be deemed to be the

1 later of (1) dismissal of all claims and defenses in this Action, with or without
 2 prejudice; and (2) final judgment herein after the completion and exhaustion of all
 3 appeals, rehearings, remands, trials, or reviews of this Action, including the time
 4 limits for filing any motions or applications for extension of time pursuant to
 5 applicable law.

6 **5. DESIGNATING MATERIAL AS CONFIDENTIAL**

7 **5.1 Exercise of Restraint and Care in Designating Material for Protection:**

8 Each Party or Non-Party that designates information or items for protection under
 9 this Order must take care to limit any such designation to specific material that
 10 qualifies under the appropriate standards. The Designating Party must designate for
 11 protection only those parts of material, documents, items or oral or written
 12 communications that qualify so that other portions of the material, documents, items
 13 or communications for which protection is not warranted are not swept unjustifiably
 14 within the ambit of this Order.

15 Mass, indiscriminate, or routinized designations are strictly prohibited.
 16 Designations that are shown to be clearly unjustified *or* that have been made for an
 17 improper purpose (*e.g.*, to unnecessarily encumber or delay the case development
 18 process, or to impose unnecessary expenses and burdens on other parties) may
 19 subject the Designating Party to sanctions.

20 If it comes to a Designating Party's attention that information that it designated
 21 confidential does not qualify for protection, that Designating Party must promptly
 22 notify all other parties that it is withdrawing the mistaken designation.

23 **5.2 Manner and Timing of Designations.** Except as otherwise provided in
 24 this Order, or as otherwise stipulated or ordered, material that qualifies for protection
 25 under this Order must be clearly designated confidential before the material is
 26 disclosed or produced.

27 **5.3 Designation in conformity with this Order requires:**

28 (a) For information in documentary form (*e.g.*, paper or electronic
 documents, but excluding transcripts of depositions or other pretrial or trial

proceedings), that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that contains protected material. If only a portion of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) For testimony given in deposition proceedings, the Party or Non-party offering or sponsoring the testimony must identify within thirty days of the receipt of the transcript, all confidential testimony.

(c) For information produced in some form other than documentary and for any other tangible items, the Producing Party must affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.4 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate information or items as confidential does not waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable

1 efforts to assure that the material is treated in accordance with the provisions of this
2 Order.

3 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
5 designation of confidentiality at any time that is consistent with the Court's
6 Scheduling Order.

7 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
8 resolution process under the informal dispute resolution process set forth in the
9 Court's Procedures and Schedules. See [http://www.cacd.uscourts.gov/honorable-
10 alka-sagar](http://www.cacd.uscourts.gov/honorable-alka-sagar).

11 6.3 The burden of persuasion in any such challenge proceeding shall be on
12 the Designating Party. Frivolous challenges, and those made for an improper purpose
13 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
14 expose the Challenging Party to sanctions. Unless the Designating Party has waived
15 or withdrawn the confidentiality designation, all parties shall continue to afford the
16 material in question the level of protection to which it is entitled under the Producing
17 Party's designation until the Court rules on the challenge.

18 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

19 7.1 Basic Principles. A Receiving Party may use Protected Material that is
20 disclosed or produced by another Party or by a Non-Party in connection with this
21 Action only for prosecuting, defending or attempting to settle this Action. Such
22 Protected Material may be disclosed only to the categories of persons and under the
23 conditions described in this Order. When the Action has been terminated, a Receiving
24 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

25 Protected Material must be stored and maintained by a Receiving Party at a
26 location and in a secure manner that ensures that access is limited to the persons
27 authorized under this Order.

28 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
otherwise ordered by the court or permitted in writing by the Designating Party, a

1 Receiving Party may disclose any information or item designated
2 “CONFIDENTIAL” only to:

- 3 (a) The Receiving Party’s Outside Counsel of Record in this Action, as
4 well as employees of said Outside Counsel of Record to whom it is
5 reasonably necessary to disclose the information for this Action;
- 6 (b) The officers, directors, and employees (including House Counsel) of
7 the Receiving Party to whom disclosure is reasonably necessary for
8 this Action;
- 9 (c) Experts (as defined in this Order) of the Receiving Party, including
10 associated personnel necessary to assist Experts in these proceedings,
11 such as litigation assistants, paralegals, and secretarial and other
12 clerical personnel, so long as such Expert has signed the
13 “Acknowledgment and Agreement to Be Bound by Stipulated
14 Protective Order” (Exhibit A);
- 15 (d) The Court and its personnel;
- 16 (e) Court reporters and their staff;
- 17 (f) Professional jury or trial consultants, mock jurors, and Professional
18 Vendors to whom disclosure is reasonably necessary for this Action
19 and who have signed the “Acknowledgment and Agreement to Be
20 Bound” (Exhibit A);
- 21 (g) The author or recipient of a document containing the information or
22 a custodian or other person who otherwise possessed or knew the
23 information;
- 24 (h) During their depositions, witnesses, and attorneys for witnesses, in
25 the Action to whom disclosure is reasonably necessary provided: (1)
26 the deposing party requests that the witness sign the form attached as
27 Exhibit A hereto; and (2) they will not be permitted to keep any
28 confidential information unless they sign the “Acknowledgment and

Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order any mediator or arbitrator appointed by the Court or selected by mutual agreement of the parties and the mediator or arbitrator’s secretarial and clerical personnel, provided that a company representative for the mediator or arbitrator has signed the “Acknowledgment and Agreement to Be Bound by Stipulated Protective Order” (Exhibit A);

- (i) any mediators or settlement officers and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions
- (j) A Non-Party witness to whom disclosure is reasonably necessary for this Action; and
- (k) reinsurers for any Party which is an insurance company, or any state or other regulator of any Party which is an insurance company.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

- (a) notify the Designating Party in writing (by email if possible) promptly after receiving the subpoena.
- (b) promptly notify in writing the party that caused the subpoena or order to issue that some or all the material covered by the subpoena or order is the subject of

1 this Protective Order. Such notification shall include a copy of this Stipulated
2 Protective Order.

3 (c) cooperate with respect to all reasonable procedures sought to be pursued
4 by the Designating Party whose Protected Material may be affected.

5 If the Designating Party timely seeks a protective order, the Party served with
6 the subpoena or court order shall not produce any information designated in this
7 action as “CONFIDENTIAL” before a determination by the court from which the
8 subpoena or order issued, unless the Party has obtained the Designating Party’s
9 permission.

10 The Designating Party shall bear the burden and expense of seeking protection
11 in that court of its confidential material and nothing in these provisions should be
12 construed as authorizing or encouraging a Receiving Party in this Action to disobey
13 a lawful directive from another court.

14 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
15 **PRODUCED IN THIS LITIGATION**

16 9.1 The terms of this Order are applicable to information produced by a
17 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
18 produced by Non-Parties in connection with this litigation is protected by the
19 remedies and relief provided by this Order. Nothing in these provisions should be
20 construed as prohibiting a Non-Party from seeking additional protections.

21 9.2 In the event that a Party is required, by a valid discovery request, to
22 produce a Non-Party’s confidential information in its possession, and the Party is
23 subject to an agreement with the Non-Party not to produce the Non-Party’s
24 confidential information, then the Party shall:

25 (1) promptly notify in writing the Requesting Party and the Non-Party that
26 some or all of the information requested is subject to a confidentiality agreement with
27 a Non-Party;
28

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

9.3 If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must promptly (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound by Stipulated Protective Order" that is attached hereto as Exhibit A.

11. MISCELLANEOUS

10.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

10.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this

1 Protective Order. Similarly, no Party waives any right to object on any ground to use
2 in evidence of any of the material covered by this Protective Order.

3 10.3 Filing Protected Material. A Party that seeks to file under seal any
4 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
5 only be filed under seal pursuant to a court order authorizing the sealing of the
6 specific Protected Material at issue. If a Party's request to file Protected Material
7 under seal is denied by the court, then the Receiving Party may file the information
8 in the public record unless otherwise instructed by the court.

9 **12. FINAL DISPOSITION**

10 After the final disposition of this Action, as defined in paragraph 4, within 60 days of
11 a written request by the Designating Party, each Receiving Party must return all
12 Protected Material to the Producing Party or destroy such material. As used in
13 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
14 summaries, and any other format reproducing or capturing any of the Protected
15 Material. Whether the Protected Material is returned or destroyed, the Receiving
16 Party must submit a written certification to the Producing Party (and, if not the same
17 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
18 (by category, where appropriate) all the Protected Material that was returned or
19 destroyed and (2) affirms that the Receiving Party has not retained any copies,
20 abstracts, compilations, summaries or any other format reproducing or capturing any
21 of the Protected Material.

22 Notwithstanding this provision, Counsel are entitled to retain an archival copy
23 of all documents, pleadings, motion papers, trial, deposition, and hearing transcripts,
24 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
25 attorney work product, and consultant and expert work product, even if such
26 materials contain Protected Material.

27 Any Party which is an insurance company and subject to state and other
28 regulations, is entitled to retain Protected Material as part of its files as required by

1 applicable insurance regulations. Any such archival copies that contain or
2 constitute Protected Material remain subject to this Protective Order.

3 **13. VIOLATIONS**

4 Any violation of this Order may be punished by appropriate measures
5 including, without limitation, contempt proceedings and/or monetary sanctions.

6
7 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

8
9 Dated: October 3, 2023

BARNES & THORNBURG LLP

10
11 By: /s/ Joshua B. Rosenberg

12 David E. Wood
Joshua B. Rosenberg

13 Attorneys for Defendant
14 DE CASTRO, WEST, CHODOROW,
MENDLER & GLICKFELD, INC.

15 Dated: October 3, 2023

**SELMAN LEICHENGER EDSON
HSU NEWMAN & MOORE, LLP**

16
17
18 By: /s/ Laura R. Ramos

19 Eldon S. Edson
Laura R. Ramos

20 Attorneys for Plaintiff
21 CAROLINA CASUALTY
INSURANCE COMPANY
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1 Dated: October 3, 2023

**MOUND COTTON WOLLAN &
GREENGRASS LLP**

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5 By: /s/ Kenneth M. Labbate
Kenneth M. Labbate
6 Gary A. Barrera
7 Attorneys for Defendant,
CONTINENTAL CASUALTY
8 COMPANY

9 Dated: October 3, 2023

**WALKER WILCOX MATOUSEK
LLP**

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11
12 By: /s/ Ryan J. Rodman
13 Ryan J. Rodman
14 Attorneys for Defendant,
SWISS RE CORPORATE
15 SOLUTIONS CAPACITY
INSURANCE CORPORATION,
16 f/k/a FIRST SPECIALTY
INSURANCE CORPORATION

17
18
19 Dated: October 3, 2023

DYKEMA GOSSETT PLLC

20
21
22 By: /s/ Cory L. Webster
Cory L. Webster
23 Brent H. Olson
24 Attorneys for Defendant,
INTERSTATE FIRE &
25 CASUALTY COMPANY

1 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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3 DATED: October 4, 2023

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5 / s / Sagar

6 Honorable Alka Sagar

7 United States Magistrate Judge
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EXHIBIT A
ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

_____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury
 that I have read in its entirety and understand the Stipulated Protective Order that
 was issued by the United States District Court for the Central District of California
 on [date] in the case of *Carolina Casualty Insurance Company v. De Castro, West,*
Chodorow, Mendler & Glickfeld, Inc., et al., Case No. 2:23-cv-02674-MEMF(ASx). I
 agree to comply with and to be bound by all the terms of this Stipulated Protective
 Order and I understand and acknowledge that the failure to so comply could expose
 me to sanctions and punishment in the nature of contempt. I solemnly promise that
 I will not disclose in any manner any information or item that is subject to this
 Stipulated Protective Order to any person or entity except in strict compliance with
 the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
 for the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print or type
 full name] of _____ [print or type full address and
 telephone number] as my California agent for service of process in connection with
 this action or any proceedings related to enforcement of this Stipulated Protective
 Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____